

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
TEXARKANA DIVISION

UNITED STATES OF AMERICA

PLAINTIFF

VS.

Criminal No. 4:03-CR-40008
Civil No. 08-CV-04087

LAIF DOUGLAS POULTON

MOVANT

ORDER

Before the Court is the Report and Recommendation filed on February 6, 2009, by the Honorable Barry A. Bryant, United States Magistrate Judge for the Western District of Arkansas. (Doc. No. 51). On February 13, 2009, the Movant filed objections to the Magistrate Judge's Report. (Doc. No. 52).

On March 12, 2003, the Movant Laif Poulton was indicted for wire fraud. He entered a plea of guilty to the charges on June 27, 2003. The Court sentenced Poulton to a term of twenty-four (24) months imprisonment to be followed by three (3) years supervised release. One of the conditions of Poulton's supervised release was that he not commit any federal, state or local crime. On September 8, 2005, Poulton was released from federal custody and began serving his supervised release.

On April 1, 2008, Poulton was convicted of Theft of Property and two counts of Forgery in the Circuit Court of Washington County, Arkansas. On April 4, 2008, as a result of his criminal conviction, the Court issued a warrant for Poulton's arrest for violation of his supervised release. A Revocation Hearing was set for April 10, 2008. Counsel was appointed to represent Poulton at this hearing. At the hearing, Poulton did not object to the proceeding or its timing. He

admitted that he had been convicted of a felony offense in state court. As a result of this conviction, the Court revoked Poulton's supervised release and sentenced him to a term of imprisonment of twenty-one (21) months to be served consecutively to the sentence imposed in state court. Poulton did not object to the sentence imposed by the Court.

On September 19, 2008, Poulton filed this Motion to Vacate or Correct Sentence pursuant to 28 U.S.C. section 2255. (Doc. No. 31). In his motion, Poulton alleges that 1) the revocation hearing was done in an unreasonable manner, 2) he did not have timely notice of the hearing, 3) he has been subjected to double jeopardy, and 4) his federal sentence did not have to run consecutive to his state sentence. The matter was referred to Magistrate Judge Barry A. Bryant for a report and recommendations.

In his report, Judge Bryant found that 1) there was no unreasonable delay in holding Poulton's revocation hearing, 2) he had timely notice of the hearing and did not object to its timing when questioned by the Court, 3) his double jeopardy claim is without merit, and 4) the Court determined that a 21 month consecutive sentence was appropriate in this case. Judge Bryant has recommended that the instant motion be denied. Poulton has filed a letter objecting to the Magistrate's findings and recommendation.

After considering the Movant's objections and reviewing the record *de novo*, the Court adopts the Magistrate's Report and Recommendation (Doc. No. 51) as its own. Accordingly, Movant Laif Douglas Poulton's Motion to Vacate or Correct Sentence (Doc. No. 31) should be and hereby is **denied**.

IT IS SO ORDERED, this 9th day of March, 2009.

/s/Harry F. Barnes
Hon. Harry F. Barnes
United States District Judge